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December 21, 2009

BY HAND AND VIA E.C.F.

Honorable Sandra J. Feuerstein
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Maksim Rabayev v. City of New York, et al.
07 Civ. 5001 (SJF) (JO)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants in the above-referenced case. In furtherance of my letter dated December 14, 2009, I write to inform the Court that the parties have reached a settlement and accordingly defendants respectfully submit the enclosed stipulation and order of settlement and dismissal, executed by counsel for both parties, for the Court's endorsement.

I thank the Court for its time and consideration in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew Weir".

Matthew Weir
Assistant Corporation Counsel
Special Federal Litigation Division

Encl.

cc: David Zelman, Esq., attorney for plaintiff (by E.C.F. and fax)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MAKSIM RABAYEV,

Plaintiff,

-against-

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**

07 CV 5001 (SJF) (JO)

THE CITY OF NEW YORK, POLICE OFFICER
LIEUTENANT AMMANUEL GONZALEZ 70th precinct,
POLICE OFFICER JASON T REYNOLDS 70th precinct,
SERGEANT THOMAS KENNEDY 70th precinct,
SERGEANT ROLAND JEROME 70th precinct, POLICE
OFFICERS JOHN DOE(S) #'s 1-3 70th precinct,

Defendants.

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WHEREAS, plaintiff commenced this action by filing a complaint in the Southern District of New York on or about November 13, 2007, alleging that certain of his federal and state rights were violated; and

WHEREAS, this action was transferred to the Eastern District of New York on December 3, 2007; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff MAKSIM RABAYEV the sum of ONE HUNDRED TEN THOUSAND DOLLARS (\$110,000) in full satisfaction of all claims, including claims for costs, expenses, and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against the named defendants, the City of New York, Lieutenant Emmanuel Gonzalez (sued herein as "Police Officer Lieutenant Ammanuel Gonzalez"), Police Officer Jason Reynolds, Sergeant Thomas Kennedy and Sergeant Roland Jerome, with prejudice, and to release all defendants, including the defendants named herein as "POLICE OFFICER(S) JOHN DOES #1-3," and any present or former employees or agents of the City of New York, or any agency thereof, including, but not limited to, the New York City Police Department, from any and all liability, claims, or rights of action under state or federal law which were or could have been alleged in this action, including claims for costs, expenses and attorneys' fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of Status of Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York, or any agency thereof, including, but not limited to, the New York City Police Department.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: December 21, 2009
New York, New York

David Zelman, Esq.
Attorney for Plaintiff
612 Eastern Parkway
Brooklyn, New York 11225
(718) 604-3072

By: _____
David Zelman, Esq.

MICHAEL A. CARDOZO
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By: Matthew Weir 12/21/09
Matthew Weir
Assistant Corporation Counsel

SO ORDERED:

HON. SANDRA J. FEUERSTEIN
UNITED STATES DISTRICT JUDGE